

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

MONTAUK CLIFFS, LLC,

Debtor.

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Chapter 11

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Case No. 22-70312 (REG)

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**ORDER (i) APPROVING SECOND AMENDED DISCLOSURE STATEMENT
RELATING TO CHAPTER 11 PLAN, (ii) ESTABLISHING VOTING RECORD DATE,
(iii) APPROVING SOLICITATION PROCEDURES, FORM
OF BALLOT AND MANNER OF NOTICE; AND (iv) FIXING THE DEADLINE FOR
FILING OBJECTIONS TO CONFIRMATION OF THE SECOND AMENDED PLAN
AND SCHEDULING HEARING ON PLAN CONFIRMATION**

A hearing having been held on April 20, 2022 (the “Hearing”) to consider the Motion (the “Motion”) of the above-referenced debtor and debtor in possession (the “Debtor”), dated March 18, 2022, seeking, *inter alia*, approval pursuant to section 1125 of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”) of the proposed Amended Disclosure Statement filed by the Debtor dated April 19, 2022 relating to the Debtor’s proposed Amended Chapter 11 Plan of Liquidation dated April 19, 2022 and approval of the proposed solicitation procedures in connection with confirmation of the Plan, and it appearing from the certificates of service on file with this Court that proper and timely notice of the Hearing has been given; and it appearing that such notice was adequate and sufficient; and all appearances at the Hearing having been duly noted on the record of the Hearing; and there being no objections to the Motion; and the Debtor having filed a Second Amended Disclosure Statement dated April 21, 2022 (the “Disclosure Statement”) and a Second Amended Chapter 11 Plan dated April 21, 2022

(the “Plan”) as a result of the Hearing; and upon all documents and proceedings heretofore had before the Court and after due deliberation and sufficient cause appearing, therefore it is

ORDERED, FOUND AND DETERMINED THAT:

1. The Disclosure Statement contains adequate information within the meaning of section 1125 of the Bankruptcy Code.

2. The Disclosure Statement and the Motion are hereby approved.

3. For voting purposes and mailing of notices pursuant to this Order, the date of entry of this Order shall be the “Voting Record Date” for the holders of Claims¹ and Interests.

4. Only the following holders of Claims in the Voting Classes shall be entitled to vote with regard to such Claims: (a) the holders of filed proofs of claim as of the close of business on the Voting Record Date, that have not been objected to at least twenty (20) days prior to the Ballot Deadline and (b) the holders of scheduled claims that are listed in the Debtor’s Schedules of liabilities filed with the Court (the “Schedules”) as not contingent, unliquidated, or disputed claims (excluding scheduled claims that have been superseded by a filed proof of claim). Holders of Claims shall not be permitted to vote on the Plan if their Claims are subject to a pending objection at least twenty (20) days prior to the Ballot Deadline.

5. With respect to a Claim that has been estimated or otherwise allowed for voting purposes by order of the Bankruptcy Court, the amount and classification of such Claim will be that set by the Bankruptcy Court.

6. A Claim recorded in the Schedules or in the Clerk’s records as wholly unliquidated, contingent and/or undetermined will be accorded one vote, valued at \$10.00, for the purposes of section 1126(c) of the Bankruptcy Code, unless the Claim is disputed as set forth in 4(a) above.

¹ All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Plan.

7. On or before April 25, 2022, the Debtor shall deposit or cause to be deposited in the United States mail, postage prepaid, and sent to all creditors and parties in interest a sealed solicitation package (the “Solicitation Package”) which shall include:

- a. a copy of this Order;
- b. a copy of the Disclosure Statement, as approved by the Court;
- c. a copy of the Plan;
- d. a Ballot (with instructions), in substantially the form approved by the Court; and
- c. a Notice in substantially the form approved by the Court.

A certificate of service of the Solicitation Package shall be filed with the Court on or before May 2, 2022 at 4:00 p.m.

8. All persons and entities entitled to vote on the Plan shall deliver their Ballots by mail, hand delivery, facsimile or overnight courier no later than 4:00 p.m. Eastern Standard Time on May 26, 2022 (the “Ballot Deadline”) to the Balloting Agent at:

Cullen and Dykman, LLP
100 Quentin Roosevelt Boulevard
Garden City, NY 11530
Attn: Bonnie L. Pollack, Esq.

Any Ballot received after such time shall not be counted other than as provided for herein. Ballots submitted by email shall not be counted.

9. The following procedures for tabulation of Ballots are hereby approved:

(i) For the purpose of voting on the Plan, the Balloting Agent will be deemed to be in constructive receipt of any Ballot timely delivered to the address set forth above as designated for the receipt of Ballots cast on the Plan;

(ii) Any Ballot received by the Balloting Agent after the Ballot Deadline shall not be counted;

(iii) Pursuant to Bankruptcy Rule 3018(a), whenever a holder of a Claim submits more than one Ballot voting the same Claim prior to the Ballot Deadline, the last such Ballot sent and received shall count unless such holder has sufficient cause within the meaning of Bankruptcy Rule 3018(a) to submit, or the Debtor consents to the submission of, a superseding Ballot;

(iv) If a Ballot does not include a Claim amount, the Ballot shall be deemed filed in the amount of a filed Claim, and if no Claim has been filed, in the amount of the Claim as specified in the Schedules, as long as the Claim is listed in the Schedules as undisputed, non-contingent or liquidated; otherwise, the Ballot shall not be counted;

(v) If a holder of a claim casts simultaneous duplicative Ballots voted inconsistently, then such Ballots shall not be counted;

(vi) The authority of the signatory of each Ballot to complete and execute the Ballot shall be presumed;

(vii) Any Ballot that is not signed shall not be counted;

(viii) Any Ballot received by the Balloting Agent by electronic communication (i.e. email) shall be counted but signed Ballots received timely by the Balloting Agent by facsimile will not be counted;

(ix) A holder of a Claim must note all of its Claims within a particular Class under the Plan either to accept or reject the Plan and may not split its vote. Accordingly, a Ballot that partially rejects and partially accepts the Plan, or that indicates both a vote for and against the Plan, will not be counted; and

(x) The Debtor shall file with the Court a Certification of the Ballots by no later than May 31, 2022.

10. The Confirmation Hearing is scheduled for June 8, 2022 at 10:00 a.m. Eastern Standard Time, at the United States Bankruptcy Court for the Eastern District of New York, 290 Federal Plaza, Central Islip, New York 11722, Courtroom 860, Honorable Robert E. Grossman presiding. The hearing shall take place pursuant to the Court's hearing procedures on the Court's website. This hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date(s) at said hearing and at any adjourned hearing(s).

11. Any objection to Confirmation of the Plan must be filed with the Court (with a copy to Chambers) no later than 5:00 p.m., Eastern Standard Time, on May 26, 2022 and must be served, so as to be received by such date and time by (i) counsel to the Debtor, Cullen and Dykman LLP, 100 Quentin Roosevelt Boulevard, Garden City, NY 11530 (Attn: Matthew Roseman, Esq. and Bonnie L. Pollack, Esq.); and (ii) the Office of the United States Trustee for

the Eastern District of New York, 560 Federal Plaza, Central Islip, New York 11722 (Attn: William Birmingham, Esq.). Any objection to Confirmation of the Plan must be in writing and (a) must state the name and address of the objecting party and the amount of its Claim or the nature of its interest and (b) must state, with particularity, the nature of its objection.

12. Any replies of the Debtor to objections to Confirmation shall be filed by no later than 5:00 p.m. on June 1, 2022.

**Dated: Central Islip, New York
April 21, 2022**



A handwritten signature in black ink, appearing to read "Robert E. Grossman".

**Robert E. Grossman
United States Bankruptcy Judge**